

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

RESTAURANT LAW CENTER, and  
NATIONAL RESTAURANT  
ASSOCIATION,

Plaintiffs,

v.

CITY OF NEW YORK, and LORELEI  
SALAS, in her official capacity as  
Commissioner of the NEW YORK CITY  
DEPARTMENT OF CONSUMER  
AFFAIRS,

Defendants.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 2/6/18

**ORDER**

17 Civ. 9128 (PGG)

PAUL G. GARDEPHE, U.S.D.J.:

On February 23, 2018, Michael Harper and thirty-five other professors of labor and employment law, labor relations, public policy, and economics moved to file a brief as amici curiae in the above-captioned action. (Dkt. No. 37) Defendants consented to the motion, but Plaintiffs opposed it. (Kolko Decl. (Dkt. No. 38) at 1)

On March 5, 2018, this Court granted the motion to file the amicus brief. In that Order, this Court stated that “[a]ny party to this action wishing to address the arguments made in the amicus brief shall do so by March 26, 2018.” (Id. at 1 (emphasis removed))

On March 26, 2018, Intervenor filed a response to the amicus brief. (Dkt. No. 76) On April 2, 2018, Plaintiffs moved to strike that response. (Dkt. No. 77) Plaintiffs claim that Intervenor’s filing violates an agreement between Intervenor and Plaintiffs that Intervenor would file only “one brief in connection with the parties’ cross-motions for summary judgment.” (Id. at 2) (emphasis in original). Plaintiffs also note that this Court denied Intervenor’s previous

motion to file a reply to Plaintiffs' response to Intervenor's' brief (id. at 3-4; see also Dkt. No. 73), and that Intervenor's' brief in response to the amicus brief contains arguments that are not responsive to the arguments raised by amici. (Id. at 4-5)

On April 4, 2018, Intervenor's filed an opposition to Plaintiffs' motion to strike. (Dkt. No. 79) Intervenor's argue that the Court's March 5, 2018 Order authorized Intervenor's to file a response (id. at 2-3), and that the arguments in their response address arguments made in the amicus brief. (Id. at 3-4)

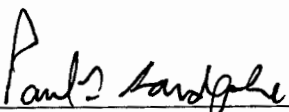
On April 11, 2018, Plaintiffs filed a reply. (Dkt. No. 86) Plaintiffs argue that "Intervenor's do not have the rights of a full-blown party to this litigation" (id. at 2), and repeat their complaint that Intervenor's' response contains arguments that are not responsive to the amicus brief. (Id. at 2-6)

This Court granted Intervenor's' motion to intervene in this case. (Dkt. No. 33) Accordingly, when this Court granted "any party" the right to respond to the amicus brief, that Order was intended to include Intervenor's. Nonetheless, to the extent that Intervenor's' response raises arguments that are not responsive to those made in the amicus brief, the Court has disregarded those arguments.

Plaintiffs' motion to strike is denied. The Clerk of Court is directed to terminate the motion. (Dkt. No. 76)

Dated: New York, New York  
February 6, 2019

SO ORDERED.

  
\_\_\_\_\_  
Paul G. Gardephe  
United States District Judge